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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 120417412-2412-01]

RIN 0648-XCO76

Reef Fish Fishery of the Gulf of Mexico; 2012 Commercial
Accountability Measure and Closure for Gulf of Mexico Gray
Triggerfish

AGENCY: National Marine Fisheries Service (NMFS), National
Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures (AMs) for the commercial sector of gray triggerfish in the Gulf of Mexico (Gulf) for the 2012 fishing year through this final temporary rule. Based on the projected commercial landings estimates, NMFS determined that the commercial annual catch target (ACT) for Gulf gray triggerfish will be met by July 1, 2012. Therefore, NMFS closes the commercial sector for gray triggerfish on July 1, 2012, through the remainder of the fishing year in the Gulf exclusive economic zone (EEZ). This action is necessary to reduce overfishing of the Gulf gray triggerfish resource.

DATES: This rule is effective 12:01 a.m., local time on July 1,

2012, until 12:01 a.m., local time on January 1, 2013.

ADDRESSES: Electronic copies of documents supporting the final temporary rule implementing gray triggerfish management measures (77 FR 28308, May 14, 2012), which include a draft environmental impact statement and a regulatory flexibility analysis, may be obtained from the Southeast Regional Office Web site at <http://sero.nmfs.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Peter Hood, telephone: 727-824-5305 or e-mail: Peter.Hood@noaa.gov.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council (Council) and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and achieve, on a continuing basis, the optimum yield from federally managed fish stocks. These mandates are intended to ensure that fishery resources are managed for the greatest overall benefit to the nation, particularly with respect to providing food production

and recreational opportunities, and protecting marine ecosystems. To further this goal, the Magnuson-Stevens Act requires fishery managers to end overfishing of stocks and to minimize bycatch and bycatch mortality to the extent practicable. To accomplish this, the Magnuson-Stevens Act implemented new requirements that annual catch limits (ACLs) and AMs be established to end overfishing and prevent overfishing from occurring. AMs are management controls to prevent ACLs from being exceeded, and to correct or mitigate overages of the ACL if they occur. One of the AMs established for gray triggerfish is an ACT (quota) that is less than the ACL. The ACT is intended to address management associated with monitoring landings of the reduced quota. The ACT is intended to better ensure the ACL is not exceeded.

In 2011, a Southeast Data, Assessment, and Review (SEDAR) update stock assessment for gray triggerfish determined that the gray triggerfish stock was still overfished and was additionally undergoing overfishing. At the request of the Council, on May 14, 2012, NMFS published a final temporary rule to reduce overfishing of gray triggerfish on an interim basis (77 FR 28308) while the Council developed more permanent measures to end overfishing and rebuild the gray triggerfish stock in Amendment 37 to the FMP. The final temporary rule set the commercial ACT (commercial quota) at 60,900 lb (27,624 kg), round weight.

The regulations at 50 CFR 622.49(a)(17)(i), contain both in-season and post-season AMs. The in-season AM closes the commercial sector after the commercial ACT (commercial quota) is reached or projected to be reached. Based on the most recent information available through the quota monitoring system of the Southeast Fisheries Science Center, the 2012 commercial ACT for Gulf gray triggerfish will be met by July 1, 2012. Therefore, NMFS implements the in-season AM and closes the commercial sector for Gulf gray triggerfish at 12:01 a.m., local time, July 1, 2012. The commercial sector will remain closed through December 31, 2012. This closure is intended to reduce overfishing of Gulf gray triggerfish and increase the likelihood that the 2012 ACL will not be exceeded.

On June 4, 2012, NMFS published a notice in the Federal Register to close the recreational sector for Gulf gray triggerfish on June 11, 2012, and it will remain closed through December 31, 2012 (77 FR 32913). Therefore, beginning 12:01 a.m., local time on July 1, 2012, until 12:01 a.m., local time on January 1, 2013, all harvest, possession, sale, or purchase of gray triggerfish in or from the Gulf EEZ is prohibited. The prohibition on sale or purchase does not apply to sale or purchase of gray triggerfish that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, July 1, 2012, and were

held in cold storage by a dealer or processor.

The commercial sector for gray triggerfish will reopen on January 1, 2013, the beginning of the 2013 commercial fishing season. The 2013 commercial quota for gray triggerfish will be the quota specified at 50 CFR 622.42(a)(1)(vii) unless a reduced quota is specified through notification in the Federal Register, or subsequent regulatory action is taken to adjust the quota.

Classification

This action responds to the best scientific information available. The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of Gulf gray triggerfish and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.49(a)(17)(i) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive the requirements to provide prior notice and opportunity for public comment on this temporary rule. As specified in 50 CFR 622.49(a)(17)(i), the AMs state that NMFS will file a

notification with the Office of the Federal Register to close the commercial sector after the commercial quota (commercial ACT) is reached or projected to be reached. All that remains is to notify the public of the closure of Gulf gray triggerfish for the remainder of the 2012 fishing year. Additionally, there is a need to immediately implement the closure of gray triggerfish for the 2012 fishing year, to prevent further commercial harvest and prevent the ACL from being exceeded, which will protect the gray triggerfish resource in the Gulf. Also, providing prior notice and opportunity for public comment on this action would be contrary to the public interest because many of those affected by the closure need as much time as possible to adjust business plans to account for the reduced commercial fishing season.

For the aforementioned reasons, the Assistant Administrator, NMFS, also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 et seq.

Dated: June 18, 2012

Carrie Selberg,

Acting Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.

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